UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | |
|---|---|
| In re Terrorist Attacks on September 11, 2001 | 03 MDL 1570 (GBD)<br>ECF Case |

This document applies to:

*Federal Insurance Co., et al. v. Al Qaida, et al.*, Case No. 03-CV-06978
*Vigilant Insurance Co., et al. v. Kingdom of Saudi Arabia, et al.*, Case No. 03-CV-08591
*Pacific Employers Insurance, et al. v. Kingdom of Saudi Arabia, et al.*, Case No. 04-CV-7216
*Thomas Burnett, Sr., et al. v. Al Baraka Inv. & Dev. Corp., et al.*, Case No. 03-CV-09849
*Euro Brokers Inc., et al., v. Al Baraka, et al.*, Case No. 04-CV-7279
*Kathleen Ashton, et al. v. Al Qaeda Islamic Army, et al.*, Case No. 02-CV-06977
*Estate of John P. O'Neill, Sr., et al. v. Kingdom of Saudi Arabia*, Case No. 04-CV-1922
*Continental Casualty Co., et al. v. Al Qaeda, et al.*, Case No. 04-CV-5970
*Cantor Fitzgerald & Co., et al. v. Akida Bank Private., Ltd., et al.*, Case No. 04-CV-7065

# PLAINTIFFS' REPLY IN SUPPORT OF THEIR MOTION FOR RELIEF OF THE FINAL JUDGMENTS ENTERED IN FAVOR OF THE KINGDOM OF SAUDI ARABIA AND SAUDI HIGH COMMISSION FOR RELIEF OF BOSNIA & HERZEGOVINA

Plaintiffs submit this reply in support of their motion for relief, pursuant to Fed. R. Civ. P. 60(b)(6), from final judgment entered in favor of defendants the Kingdom of Saudi Arabia and Saudi High Commission for Relief of Bosnia & Herzegovina ("SHC") in light of the Court of Appeals' recent decision, *Doe v. Bin Laden*, 663 F.3d 64 (2d Cir. 2011). Relief is appropriate because *Doe* overruled the Second Circuit's earlier holding that formed the basis for dismissing plaintiffs' claims against the Kingdom and SHC and would otherwise produce contradictory results as to two identically-situated sovereign states in the same, ongoing litigation, and because this case presents additional equitable factors favoring plaintiffs.

## I. NEITHER THE 9/11 COMMISSION NOR ANY OTHER SOURCE HAS EXONERATED THE KINGDOM.

Defendants open their memorandum by claiming that the 9/11 Commission's *Report* exonerated the Kingdom from complicity in the September 11, 2001 attacks. Opp. 1. Even if this were somehow relevant to the Rule 60(b) motion, it is clearly wrong. In addition to the many other, authoritative sources that have implicated the Kingdom and its officials in supporting the attacks, Senator Bob Kerrey, a member of the 9/11 Commission, makes clear in his accompanying Affirmation to this Court that the *Report* did not exonerate the Kingdom. Carter Aff. at Exh. 2 ("The Kingdom's Memorandum of Law contains several misleading statements concerning the investigation and findings of the 9/11 Commission relative to possible Saudi culpability for the sponsorship of al Qaeda and the events of September 11, 2001 …."); *id.* ("significant questions remain unanswered concerning the possible involvement of Saudi government institutions and actors"). Senator Bob Graham, a long-time member of the Senate Select Committee on Intelligence and Co-Chair of the Congressional Joint Inquiry into 9/11 ("Joint Inquiry") has also submitted an Affirmation. In it, he expresses his view, based on the Joint Inquiry and other sources of information, "that there was a direct line between at least some of the terrorists who carried out the September 11th attacks and the government of Saudi Arabia, and that a Saudi government agent living in the United States, Omar Bayoumi, provided direct assistance to September 11th hijackers Nawaf al Hazmi and Khalid al Mihdhar." *Id.* at Exh. 1; *see id.* at Exh. 2, p. 4 (Sen. Kerrey). Senator Graham further states that "[a]nother issue deserving of further attention and investigation concerns the involvement of Saudi based charities in the provision of financial and other support to al Qaeda, and the precise character of the relationships between those charities and the government of the Kingdom." *Id.* at Exh. 1. Defendants' claim that plaintiffs' theories have somehow been discredited are likewise rebutted by plaintiffs' pleadings, the evidence previously submitted of record, and the evidence submitted in support of this Reply, including the identification of the SHC as a "terrorist support entity" in the "Matrix of Threat Indicators" used by the U.S. military's Joint Task Force at Guantanamo to determine whether a detainee poses a terrorist threat. *Id.* at Exh. 3; *see also id.* at Exhs. 4-9.

## II. RULE 60(b)(6) RELIEF IS WARRANTED BECAUSE *DOE* OVERRULED THE VERY BASIS OF THE JUDGMENT IN THE SAME, ONGOING LITIGATION AND ADDITIONAL EQUITABLE FACTORS ARE PRESENT.

Defendants rest their opposition on the assertion that "a mere change in decisional law" does not alone warrant Rule 60(b)(6) relief, Opp. 10-17, but that point, even if accepted, does not reflect the circumstances presented here, where several additional factors relevant to Rule 60(b)(6) relief are unquestionably present. There is, in addition, a direct overruling of the basis for the district court's decision, arising from and affecting the very same, continuing litigation before this Court. That intervening act produced a result that, if uncorrected by a grant of Rule 60(b) relief, would treat like defendants (Afghanistan and the Saudi Kingdom) unequally and would have plaintiffs pursue full recovery against only a subset of similarly situated defendants. And, that result would arise where plaintiffs fully sought to protect their rights through appeal, provided notice of the potential overruling, and promptly sought relief once the overruling in fact occurred. These factors all make it appropriate for this Court to exercise its "broad discretion …

to grant relief when appropriate to accomplish justice." *Matarese v. LeFevre*, 801 F.2d 98, 106 (2d Cir. 1986) (internal quotation marks omitted).

1. Defendants greatly overstate and misapply the theory that a change in decisional law cannot alone justify Rule 60(b)(6) relief. The Second Circuit has invoked the principle that "a mere change in decisional law" is insufficient, *Pichardo v. Ashcroft*, 374 F.3d 46, 56 (2d Cir. 2004), where, for example, a party could have – but failed to – protect its rights by seeking appellate review of an adverse decision. *See, e.g.*, *United Airlines, Inc. v. Brien*, 588 F.3d 158, 176-77 (2d Cir. 2009); *Travelers Indem. Co. v. Sarkisian*, 794 F.2d 754, 757 & n.4 (2d Cir. 1986) (failure to seek certiorari). And, it has done so where a party points to simple legal error – *e.g.*, a federal court's failure to predict subsequent state court rulings that affected an unrelated "case that had been fully litigated and was long since closed." *See DeWeerth v. Baldinger*, 38 F.3d 1266, 1272 (2d Cir. 1994). These results simply reflect hornbook law "that a Rule 60 motion 'may not be used as a substitute for appeal' and that a claim based on legal error alone is 'inadequate.'" *United Airlines*, 588 F.3d at 176 (quoting *Matarese*, 801 F.2d at 107).

But, the result is quite different where, as in this case, the claim is not "based on legal error alone," *id.*, or on "a mere change in decisional law," *Pichardo*, 374 F.3d at 56, but rather rests as well on additional and compelling equitable factors. The Second Circuit and this Court have made that point clear. *See id.* (additional factors, including "change in law goes to the very basis" of judgment at issue); *Sargent v. Columbia Forest Prods., Inc.*, 75 F.3d 86, 90-91 (2d Cir. 1996) (listing additional factors); *Pasquino v. Lev Parkview Developers, LLC*, No. 09-CV-4255, 2011 U.S. Dist. LEXIS 112460, at *16-17 (S.D.N.Y. Sept. 29, 2011) (granting relief where earlier orders were "based exclusively on" an opinion that was "subsequently reversed");[1]

[1] *Pasquino*'s Rule 60(b)(6) holding was not dictum, as defendants argue, Opp. 14-15, but separate and independent of its earlier decision to also grant 60(b)(1) relief, 2011 U.S. Dist. LEXIS 112460 at *17. Also, *Pasquino* did not predicate its decision to grant 60(b)(6) relief upon

*Devino v. Duncan*, 215 F. Supp. 2d 414, 419 (S.D.N.Y. 2002) (granting relief based on "unique circumstances presented by the intervening decision" and practical, procedural hurdles); *see Tal v. Miller*, No. 97-CV-2275, 1999 U.S. Dist. LEXIS 652, at *5 (S.D.N.Y. Jan. 25, 1999). Other circuits are in accord.[2] These decisions simply reflect the portion of the governing Rule 60(b)(6) principle that defendants ignore: that "courts have relied on an applicable change in decisional law, coupled with some other special circumstance, in order to grant Rule 60(b)(6) relief." *Blue Diamond Coal Co. v. Trs. of UMWA Combined Benefit Fund*, 249 F.3d 519, 524 (6th Cir. 2001) (collecting cases). This practice demonstrates the more general equitable principles that underlie Rule 60(b)(6), where "a decision to reopen an action under Rule 60(b) will necessarily require fact-intensive weighing of the equities in a particular case," *DeWeerth*, 38 F.3d at 1271, and where the Rule provides courts with a "grand reservoir of equitable power to do justice in a particular case." *Pichardo*, 374 F.3d at 55 (internal quotation marks and citation omitted).

2. To the limited extent that defendants indirectly address factors beyond the "mere" change in decisional law, their arguments are without merit.

For example, defendants fail to address the three relevant factors identified by the Second Circuit in *Sargent*, but instead seek to distinguish the case on the ground that the decision involved a motion to recall a mandate. *See* Opp. 15; *Sargent*, 75 F.3d at 89-91 (factors include whether (i) the court was on notice of the pending case that altered the legal rule, (ii) "there was not a substantial lapse of time between issuance of [the court's] mandate and the present motion," and (iii) "the equities strongly favor [the movant]"). However, courts have rejected that distinction, *see Sargent*, 75 F.3d at 89 (motion to recall a mandate is "analogous to the power

---

the fact that plaintiffs had not yet appealed, as defendants argue, Opp. 15. That fact was only relevant to the 60(b)(1) holding. 2011 U.S. Dist. LEXIS 112460 at *10-14.

[2] *See Phelps v. Alameida*, 569 F.3d 1120, 1140 (9th Cir. 2009); *Jackson v. Sok*, 65 F. App'x 46, 49 (6th Cir. 2003); *Blue Diamond Coal*, 249 F.3d at 524; *Ritter v. Smith*, 811 F.2d 1398, 1401 (11th Cir. 1987); *Pierce v. Cook & Co.*, 518 F.2d 720, 723 (10th Cir. 1975).

conferred on district courts by Fed. R. Civ. P. 60(b)"), and have instead relied upon some or all of these factors when analyzing Rule 60(b)(6) motions.[3]

Defendants unsuccessfully address one of these factors when they attempt to show that this case, like *DeWeerth*, is one "that had been fully litigated and was long since closed." 38 F.3d at 1272; Opp. 12. This case is, of course, far from concluded, and officials and alter-egos of the Kingdom – and the Kingdom itself – remain enmeshed in the litigation. *See* Pl. Mem. 9. Indeed, defendants urge affirmance on alternative grounds that, far from being fully litigated, have either never been addressed by any court or have been rejected by implication by the Second Circuit. *See infra* pp. 7-10. And, as to timing, the judgment with respect to the Kingdom and, for certain plaintiffs, SHC was subject to appellate litigation until mid-2009 (not concluded for six years, as defendants suggest, *see* Opp. 12), and defendants acknowledge that the Rule 54(b) order was entered with respect to the SHC in July 2011. *See id.* Rule 60(b)(6) motions have been freely granted within this same timeframe. Pl. Mem. 8. At base, defendants simply appeal to an interest in finality which, in addressing a Rule 60(b) motion, is "unpersuasive in the interpretation of a provision whose whole purpose is to make an exception to finality." *Gonzalez v. Crosby*, 545 U.S. 524, 529 (2005).

Nor are defendants any more successful in addressing how *Doe*'s overruling of the basis for the orders at issue arose from the same, continuing litigation. Most importantly, defendants simply do not address the equitable implications of having equally positioned defendants treated differently, the same plaintiffs forced to direct their recovery only against a subset of defendants, and the hardship arising for parties who have pursued appellate relief. Instead, defendants briefly claim that *United Airlines* in some manner resolved this issue, Opp. 15-16, but that decision did no such thing. Defendants rely on the unexceptional statement in *United Airlines* that a mere conflict of two district court decisions is, "by itself," insufficient to support Rule 60(b) relief, *id.* at 15, but omit the decision's context and its treatment of additional, relevant factors. The decision addressed two divergent district court orders issued in separate but related cases, where the defendant agency, having decided to settle rather than appeal one order, sought Rule 60(b)(6) relief from that order after the district court issued the other, conflicting order. *United Airlines*, 588 F.3d at 164-69, 176-77. The Second Circuit simply concluded that, especially where the defendant could alter its own regulations to avoid any hardship arising from divergent orders, it had not shown grounds "to justify reopening a closed case in which the agency voluntarily stipulated to dismiss its appeal." *Id.* at 177. This hardly states the general rule that defendants claim, and indeed the decision elsewhere indicates that Rule 60(b)(6) may well be appropriate "where two cases arising out of the same transaction result in conflicting judgments." *Batts v. Tow-Motor Forklift Co.*, 66 F. 3d 743, 748 n.6 (5th Cir. 1995); *see United Airlines*, 588 F.3d at 175 (quoting *Batts*, 66 F.3d at 748 n.6).

---

[3] *Tirado v. Senkowski*, No. 01-CV-6099, 2011 U.S. Dist. LEXIS 62529, at *3-4 (W.D.N.Y. June 10, 2011); *Milgram v. Orthopedic Assocs. of 65 Pa. Ave.*, No. 02-CV-0255, 2010 U.S. Dist. LEXIS 80454, at *5-6 (N.D.N.Y Aug. 9, 2010), *aff'd*, 662 F.3d 187 (2d Cir. 2011); *Empresa Cubana Del Tabaco v. Culbro Corp.*, 587 F. Supp. 2d 622, 627 (S.D.N.Y. 2008), *rev'd on other grounds,* 385 F. App'x 29, 33 (2d Cir. 2010); *Scott v. Gardner*, 344 F. Supp. 2d 421, 426 (S.D.N.Y. 2004); *United States v. Enigwe*, 320 F. Supp. 2d 301, 308-09 (E.D. Pa. 2004); *Figueroa v. Fischer*, No. 99-CV-2392, 2003 U.S. Dist. LEXIS 4993, at *20-21 (S.D.N.Y. Mar. 31, 2003); *Devino*, 215 F. Supp. 2d at 418; *Tal*, 1999 U.S. Dist. LEXIS 652, at *5-6.

Defendants do acknowledge that various courts have relied on the implications of different decisions arising from the same transaction or occurrence, but suggest that the compelling fact is those cases involved the same defendant. Opp. 16. This observation is a truism to the extent that the defendant is the party seeking Rule 60(b)(6) relief (and is no different from the common plaintiffs seeking Rule 60(b)(6) relief here), and is further flawed because decisions emphasizing how cases arise from the same transaction do not base their conclusions on the defendants' status. *See, e.g.*, *Pierce*, 518 F.2d at 723 (relief appropriate because judgment "ar[o]s[e] out of the same accident as that in which the plaintiffs now before us were injured" rather than where "the decisional change came in an unrelated case"); *First Am. Nat'l Bank v. Bonded Elevator*, 111 F.R.D. 74, 75 (W.D. Ky. 1986) (quoting *Pierce*, 518 F.2d at 723, regarding the "'same transaction or occurrence'"). Similarly, two other cases cited by defendants do not rely upon the presence of the same defendant as a factor in granting relief. *See Gondeck v. Pan Am. World Airways, Inc.*, 382 U.S. 25, 27 (1965) (granting petition because petitioner was only victim not to recover from a car accident); *Norman v. Nichiro Gyogyo Kaisha, Ltd.*, 761 P.2d 713, 717 (Alaska 1988) (granting relief from a final judgment because petitioner should have been able to recover while the other victim of the car accident recovered). More fundamentally, defendants ignore that this case involves an even closer relationship between the order and the source of changed law than presented in other cases granting Rule 60(b)(6) relief: the underlying case is ongoing, not "closed for many years" as defendants misleadingly claim, Opp. 13, and the differentially affected plaintiffs and defendants are all part of the same multi-district litigation, undertaken in a common proceeding before a single judge – and thus in both respects much more directly implicate the equitable considerations that justify Rule 60(b)(6) relief.

3. Finally, defendants err in claiming that interests related to sovereign immunity weigh against Rule 60(b)(6) relief. Opp. 13. *Doe* eliminated the basis for this argument when it overruled a finding of such an immunity interest and determined that 28 U.S.C. § 1605(a)(5), an exception to immunity, in fact supports claims against sovereigns arising from the 9/11 attacks and related discovery to finally resolve the scope of immunity. 663 F.3d at 70. The Kingdom and SHC are, for this purpose, no different than Afghanistan.

## III. THE ALTERNATIVE GROUNDS ASSERTED BY DEFENDANTS PROVIDE NO BASIS FOR DENYING RULE 60(B)(6) RELIEF AND WERE REJECTED BY *DOE*.

Defendants' arguments that Rule 60(b) relief should be denied despite *Doe* and other equitable considerations, simply because defendants have advanced alternative theories for dismissal on the merits, are deeply misplaced in several respects. Those alternative grounds did not form the basis of the judgment from which relief is sought (set out in *Terrorist Attacks III*) and therefore are wholly irrelevant to the question presently before the Court. Rule 60(b) relief would not foreclose defendants from raising those arguments, but would merely ensure that the issues would be fully briefed and that any decision on the merits would be subject to appeal. Even if defendants' view of the law were correct, the proper course would be to rejoin them to the case so they could demonstrate that fact.

Moreover, defendants simply err in claiming that *Doe* left undisturbed their alternative theories of dismissal. In fact, *Doe* comprehensively analyzed how the tort exception applied to claims arising from the 9/11 attacks and repudiated all of defendants' alternative arguments for dismissal on the pleadings.

1. The Sponsorship Of Al Qaeda Is Not A Discretionary Function. *Doe* directly rejects the notion that the discretionary function clause can foreclose at the pleading stage a claim against a foreign state for injuries arising from the 9/11 attacks, based on the foreign state's material sponsorship of al Qaeda. Citing the allegations that Afghanistan provided material support to al Qaeda and conspired with al Qaeda in furtherance of the 9/11 attacks,[4] the Second Circuit held that the plaintiffs adequately "alleged nondiscretionary acts by employees of the foreign state" at the pleading stage. *Doe*, 663 F.3d at 67. Further, the decision held that Congress had implicitly adopted the interpretations of the tort exception in *Liu v. Republic of China*, 892 F.2d 1419 (9th Cir. 1989), and *Letelier v. Republic of Chile*, 488 F. Supp. 665

[4] The allegations of provision of support to terrorists in this case (not, as defendants would have it, the "government's decisions to support Islamic charities," Opp. 18) are indistinguishable from those at issue in *Doe*.

(D.D.C. 1980), *Doe*, 663 F.3d at 69, a finding that necessarily repudiates defendants' discretionary function theory, as those decisions make clear that a foreign state "has no 'discretion' to perpetrate conduct designed to result in the assassination of an individual or individuals, action that is clearly contrary to the precepts of humanity as recognized in both national and international law." *Letelier*, 488 F. Supp. at 673; *see also Liu*, 892 F.2d at 1431. *Doe* thus made clear that the discretionary function clause does not provide a basis to dismiss a 9/11 claim prior to discovery.

2. *Doe* Rejected Defendants' "Entire Tort" Theory. *Doe* also necessarily rejected defendants' "entire tort" theory in finding that the claims in *Doe*, as pled, fit within the tort exception. *Doe* observed that the unambiguous language of 1605(a)(5) requires merely that the claims arise from an *injury* "'that occur[red] in the United States,'" *Doe*, 663 F.3d at 66, and that there was "no question" that the 9/11 claims against Afghanistan satisfied this locus requirement, even though Afghanistan's support for al Qaeda occurred exclusively outside of the U.S.[5] *Id.* at 66-67. Further, *Doe* endorsed the interpretations of the tort exception in *Liu* and *Letelier*, *id.* at 69, both of which involved claims for extra-territorial conduct that produced injury in the United States. *See Liu*, 892 F.2d at 1421-23; *Letelier*, 488 F. Supp. at 674. In all of these respects, *Doe* plainly addressed and rejected defendants' entire tort theory. And, even if that were not so, defendants' theory is in any event without merit – as *Liu*, *Letelier*, and the fact that the tort here occurred in the United States all confirm.

3. Defendants' Causation Argument Is Unsupportable. *Doe* likewise makes clear that defendants' novel theory of jurisdictional "causation" cannot support a dismissal of 9/11

[5] Defendants ignore that the tort that forms the basis of the claims against them – the 9/11 attacks – did occur in the United States. In addition, they simply misread the language they cite from *Argentine Republic v. Amerada Hess shipping Corp.*, 488 U.S. 428, 441 (1989), and *Cabiri v. Government of Ghana*, 165 F.3d 193, 200 n.3 (2d Cir. 1999), which does not support their "entire tort" theory and is dicta in any case.

claims arising from a foreign state's sponsorship of al Qaeda, particularly at the pleading stage. Again, *Doe* found that there was "no question" that the injuries at issue were caused by a tortious act – the 9/11 attacks – and that the allegations that Afghanistan conspired with al Qaeda adequately pled a claim for FSIA purposes. *Doe*, 663 F.3d at 66-67. In so holding, the Second Circuit was of course aware that the district court decision in *Doe* expressly acknowledged the jurisdictional causation requirement of the tort exception, and it held that "although Afghanistan was not one of the direct perpetrators of the attacks in the United States…[u]nder a theory of civil conspiracy, the acts of one defendant may be imputed to another." *Doe v. Bin Laden*, 580 F. Supp. 2d 93, 97-98 (D.D.C. 2008). Even had *Doe* not resolved the issue, defendants' alternative theory is without merit. Consistent with *Doe*, other courts have found that there is no "textual warrant" for the argument that the "caused by" language of the FSIA imposes a restrictive causation standard as a jurisdictional requirement. *Kilburn v. Socialist People's Libyan Arab Jamahiriya*, 376 F.3d 1123, 1128 (D.C. Cir. 2004). The FSIA is a jurisdictional statute, one "not intended to affect the substantive law determining the liability of a foreign state." *First Nat'l Citi-Bank v. Banco Para el Comercio Exterior de Cuba*, 462 U.S. 611, 620 (1983). Accordingly, "[j]urisdictional causation under [the FSIA] is distinct from the substantive causation element of a claim," *Rux v. Sudan*, 461 F.3d 461, 472 (4th Cir. 2006), and merely requires a showing of "proximate cause" or "some reasonable connection between the act or omission of the defendant and the damages which the plaintiff has suffered." *Kilburn*, 376 F.3d at 1128 (internal quotation marks omitted). "Any concerns about reaching too far to charge foreign states with the attenuated impact of their … activities are better addressed as questions of substantive law." *Id*. at 1129 (citing 28 U.S.C. § 1606).

**CONCLUSION**

For the foregoing reasons, relief under Rule 60(b)(6) is warranted.

Dated: February 24, 2012

/s/
Stephen A. Cozen, Esq.
Elliott R. Feldman, Esq.
Sean P. Carter, Esq.
J. Scott Tarbutton, Esq.
COZEN O'CONNOR
1900 Market Street
Philadelphia, PA 19103
Tel: (215) 665-2000

/s/
Carter G. Phillips
Richard Klingler
Christian P. Huebner
Paul R. Perkins
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005
Tel: (202) 736-8000

On Behalf of the *Federal Insurance*, *Vigilant, and Pacific Employers* Plaintiffs

/s/
Ronald L. Motley, Esq
Jodi Westbrook Flowers, Esq.
Michael Elsner, Esq.
Robert Haefele, Esq.
Vincent I. Parrett, Esq.
MOTLEY RICE LLC
28 Bridgeside Boulevard
P.O. Box 1792
Mount Pleasant, South Carolina 29465
Tel: (843) 216-9000

/s/
Paul J. Hanly, Jr., Esq.
Jayne Conroy, Esq.
Andrea Bierstein, Esq.
HANLY CONROY BIERSTEIN & SHERIDAN, LLP
415 Madison Avenue
New York, NY 10017-1111
Tel: (212) 401-7600

On Behalf of the *Burnett* and *Euro Broker* Plaintiffs

/s/
James P. Kreindler, Esq.
Justin T. Green, Esq
Andrew J. Maloney III, Esq.
KREINDLER & KREINDLER LLP
100 Park Avenue
New York, NY 10017-5590
Tel: (212) 687-8181

On Behalf of the *Ashton* Plaintiffs

/s/
Jerry S. Goldman, Esq.
ANDERSON KILL & OLICK, P.C.
1251 Avenue of the Americas
New York, NY 10020
Tel: (212) 687-8181

On Behalf of the *O'Neill* Plaintiffs

/s/
Robert M. Kaplan, Esq.
FERBER CHAN ESSNER & COLLER, LLP
530 Fifth Avenue, 23rd Floor
New York, New York 10036-5101
Tel: (212) 944-2200

On Behalf of the *Continental Casualty* Plaintiffs

/s/______________________________

Chris Leonardo
ADAMS HOLCOMB LLP
1875 Eye Street NW
Suite 810
Washington, D.C. 20006
Tel: (202) 580-8803

On Behalf of the *Cantor Fitzgerald* Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the Plaintiffs' Reply Memorandum of Law in Support of Their Motion for Relief of the Final Judgments Entered in Favor of the Kingdom of Saudi Arabia and Saudi High Commission for Relief of Bosnia & Herzegovina was filed electronically this 24th day of February 2012. Notice of this filing will be sent to all parties in 03 MDL 1570 by operation of the Southern District of New York's Electronic Case Filing ("ECF") system. Parties may access this filing through the Court's ECF system. In addition, copies of Plaintiffs' Reply Memorandum of Law were sent via express U.S. mail to Michael K. Kellogg, Esq. and Lawrence S. Robbins, Esq.

/s/______________________________
J. Scott Tarbutton

PHILADELPHIA\6355095\1